

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

REALSOURCE BROKERAGE
SERVICES, L.C., a Utah limited liability
company,

Plaintiff,

vs.

DEAD MULE LAND & CATTLE
COMPANY, LLC dba LONESTAR
COMMERCIAL, et al.,

Defendants.

MEMORANDUM DECISION AND
ORDER DENYING DEFENDANTS'
MOTION TO STRIKE
MEMORANDUM AND DENYING
OCTOBER 31, 2006 MOTION AS
MOOT

Case No. 2:06-CV-762 TS

This matter is before the Court on Defendants' Motion to Strike and Defendants' October 31, 2006 Motion to Dismiss or, in the Alternative, to Transfer Venue.

Defendants move to strike Plaintiff's Memorandum in Opposition because it exceeds the page limit set by the local rule applicable at the time it was originally due.¹

¹See former DUCivR 7-1(b)(3) (setting page limit of ten pages for motions to dismiss).

However, that page limit was changed by amended local rule DUCivR 7-1, effective December 1, 2006.² Pursuant to the parties' stipulation, the date for Plaintiff's Response was extended to December 8, 2006,³ after the new page limits were in effect.

Defendants contend that it is unfair to allow Plaintiff the longer memorandum, even if it complies with the amended local rule, because when Defendants filed their Memorandum, they were bound by the shorter page limits under the former local rule and were denied leave to file an overlength memorandum.⁴

Local rule 81-1(b) provides that amended rules apply "to all proceedings pending at the time they take effect, except where, in the opinion of the court, their application . . . would work an injustice, in which event the former rules govern."⁵ Examining the record, the Court finds that the reason that Defendants gave for originally seeking an overlength memorandum was that it covered two motions.⁶ After Defendants' request for an overlength memorandum was denied, they filed a memorandum covering only one of their two motions.⁷ Defendants now contend that they are prejudiced because the shorter page limitation required them to delete arguments regarding the Motion to Dismiss and not just

²DUCivR 7-1(b)(4) (setting new page limit of twenty-five pages for motions to dismiss).

³Docket No. 18.

⁴See Docket No. 11 (November 1, 2006 Order Denying Defendants' Motion for Leave to File Overlength Brief).

⁵DUCivR 81-1(b).

⁶Docket No. 10, at 2.

⁷Docket No. 13.


regarding their venue motion. However, a review of Defendants' attached exhibit⁸ does not show prejudice, and instead shows that the shorter version of their Memorandum is more concise and, therefore, more effective. This does not show prejudice. Further, Defendants could have, but did not, address the change in page limits in their stipulation to extend the time for filing Plaintiffs' response and Defendants will still have the last word by their reply. The Court finds that there is no injustice in enforcing the procedural rules in effect at the time of the filings in this case. It is therefore

ORDERED that Defendants' Motion to Strike (Docket No. 25) is DENIED. It is further

ORDERED that Defendants' October 31, 2006 Motion to Dismiss and, in the alternative, to Transfer Venue (Docket No. 8) is DENIED WITHOUT PREJUDICE AS MOOT because said Motion was replaced with the Amended Motion to Dismiss filed on November 8, 2006.

DATED February 20, 2007.

BY THE COURT:



TED STEWART
United States District Judge

⁸Def.s' Ex. A at 9-19.